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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.15540 of 2020(O&M)
Date of Decision:13.07.2020**

Gurleenjot Singh @ Ghorha

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Gurmeet Singh, Advocate
for the petitioner.

Mr. Gaurav Dhuriwala, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.167 dated 04.12.2019 registered under Section 379-B IPC (later on changed to Sections 395, 120-B IPC) at Police Station Mahilpur, District Hoshiarpur.

As per allegations in the FIR, the occurrence took place on 03.12.2019 at about 10:00 pm when the complainant Jagvinder Singh along with family of Harjot Singh went in a marriage function in Creta car. After attending the marriage,

when they were returning, they went to Nanaksar Gurdawara at Jagraon to pay obeisance. After paying obeisance, they were returning to Mahilpur *via* Phagwara. When they reached near petrol pump of village Thuhana, one Cruise car suddenly came from behind and stopped in front of the vehicle of the complainant. 5-6 unidentified persons were sitting in the said car with muffled faces. After coming out of the car, they surrounded the car of the complainant. Four young boys came out of the Cruise car and by showing some weapon, they gave threat to fire shot. They asked the complainant and others to come out of the car. Three assailants snatched the car and ran away towards Mahilpur side and remaining one assailant along with his two accomplices ran away in their Cruise car towards Kot Fatuhi Phagwara.

Learned counsel for the petitioner contended that the assailants were with muffled faces and were not identified except their test identification in police custody which is not in consonance with test identification parade in terms of Section 54-A Cr.P.C read with Section 9 of the Evidence Act. Petitioner has been implicated on the basis of some statement made in FIR No.35 dated 17.02.2020 registered under Sections 307, 506, 148, 149, 120-B IPC and Section 25 of the Arms Act at Police Station City Nawanshahr, in which petitioner is not a

nominated accused. The alleged disclosure/confession made by the petitioner in the aforesaid FIR does not stand to reasons.

On 01.07.2020, following order was passed by this Court:-

“The case has been taken up for hearing through video-conferencing.

Factum of the petitioner being involved in FIR No.35 dated 17.02.2020 under Sections 307, 506, 148, 149, 120-B IPC and under Section 25 of the Arms Act, P.S. City Nawanshahr be brought on record.

According to learned counsel for the petitioner, the aforesaid FIR was recorded subsequent to the present FIR and a disclosure statement is alleged to have been recorded in FIR No.35 in respect of CRETA car in question.

Let status of the petitioner vis-a-vis FIR No.35 dated 17.02.2020 be brought on record, showing as to whether the petitioner is accused therein or not.

Adjourned to 13.07.2020.”

In compliance of the aforesaid order, learned State counsel submitted that according to his instructions, petitioner is not an accused in the aforesaid FIR No.35, however, his complicity has come to fore as per his own narration of facts which can be termed as confession of the guilt.

Having heard learned counsel for the parties, it can be appreciated that the petitioner was not named in the FIR, nor any test identification parade has been conducted by the police.

The identity of the petitioner would remain debatable on the basis of compliance or non-compliance of provision in terms of Section 54-A Cr.P.C read with Section 9 of the Evidence Act. Petitioner is in custody since 27.02.2020. Challan has already been presented, but prosecution evidence has not started as yet. In view of pandemic Covid-19, trial of the case may be delayed.

In view of aforesaid position and without meaning anything on merits of the case, petitioner is ordered to be enlarged on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing expressed hereinabove, shall be construed to be an expression of any opinion on merits of the case.

13.07.2020

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No